

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

11-CR-392-S

v.

SENTENCING MEMORANDUM

ROGER S. LUCZKOWIAK,

Defendant.

JOHN HUMANN, affirms under penalty of perjury that:

1. I have represented the defendant since the beginning this action, approximately nine months ago.

2. The defendant has pled guilty to producing child pornography and possession of child pornography. In this case, the production of child pornography was the making of movies of a young girl engaged in oral sex with the defendant. Such conduct is unacceptable in a civilized society. There is a heavy price that has to be paid for such conduct and the defendant is going have to pay it.

3. The only real issue is how much time is the defendant going to receive.

4. Because he pled guilty to making two child pornography films, each of those counts carries a mandatory minimum of 15 years and a maximum of 30 years in prison. The combined range, therefore, is 15 to 60 years in prison. The possession charge carries a maximum term of 10 years without a minimum. Therefore, statutorily, the Court is looking at a sentencing range of a minimum of 15 years up to a maximum of 70 years. The guidelines call for a sentence

of life in prison.

5. How does someone get in a position where he does such a thing? Paragraphs 67 and 68 of the presentence report picture a sad, pathetic, isolated, and lonely individual. Mr. Luczkowiak would spend almost all this time on the computer, from the time he got up until the time he went to bed. He did not have any friends, and all he would do is go to work and then come home and get on the computer. As is common with a lot of people who end up in federal court charged with child pornography, the defendant started out looking at adult pornography and eventually started looking at child pornography.

6. Any sentence, whether in federal court or state court, should make some sense and have some balance. The defendant did not kill anyone. He did not maim or inflict physical damage on her. What he did was engage in some kind of sick fantasy that now brings him to federal court for sentencing.

7. The defendant deserves a lot of time in jail. Fifteen years is a lot of time to be incarcerated. The defense suggests that 15 years is a fair and reasonable sentence under all of the circumstances in this case.

DATED: Buffalo, New York, April 20, 2012.

Respectfully submitted,

/s/John Humann

John Humann

Senior Litigator

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CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2012, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

Aaron J. Mango
Assistant United States Attorney
Western District of New York
138 Delaware Avenue, Federal Centre
Buffalo, New York 14202

And, I hereby certify that I have emailed the document to the following non-CM/ECF participant:

David W. Ball
United States Probation Officer
david_ball@nywp.uscourts.gov

/s/Sharon A. Southworth
Sharon A. Southworth
Federal Public Defender's Office